82-2030

No. _____

In the Supreme Court of the United States

OCTOBER TERM, 1983

DAMON TUCKER ANDERSON
Petitioner

v.

STATE OF OKLAHOMA
Respondent

PETITION FOR A WRIT OF CERTIORARI TO THE OKLAHOMA COURT OF CRIMINAL APPEALS

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QUESTIONS PRESENTED FOR REVIEW

1. Whether the Court of Criminal Appeals of the State of Oklahoma has correctly constued the Fourth Amendment to the Constitution by holding that *Katz v. United States,* 389 U. S. 347 (1967) was inapplicable to the instant case where a warrantless search and seizure of contraband was made by police officials on private, isolated, fenced and posted rural land?

2. Whether the Court of Criminal Appeals of the State of Oklahoma has correctly sustained the issuance of a search warrant which by its terms was overbroad and which was issued without sufficient probable cause being established concerning the reliability of the informant who allegedly supplied the information on which the affidavit is based?

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CASES:

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Petitioner, DAMON TUCKER ANDERSON, prays that a Writ of Certiorari issue to review the judgment of the Oklahoma Court of Criminal Appeals in this case.

CITATION TO OPINION BELOW

The opinion of the Oklahoma Court of Criminal Appeals was filed and authorized for publication on February 10, 1983. A copy of the opinion is attached hereto as Appendix A and may also be found at *Anderson v. State*, 658 P.2d 501 (Okla. Cr., 1983).

JURISDICTION

The judgment of the Oklahoma Court of Criminal Appeals was entered on the 10th day of February, 1983. Petitioner thereafter filed a timely Motion for Rehearing which was denied by the Court on April 5, 1983. The Court of Criminal Appeals is the Court of last resort for review of criminal cases in the State of Oklahoma. This Court's jurisdiction is invoked pursuant to 28 U.S.C. §1257(3), petitioner having asserted below and asserting herein deprivation of rights secured to him by the United States Constitution.

FEDERAL CONSTITUTIONAL PROVISION INVOLVED

1. This cause involves the Fourth Amendment to the Constitution of the United States, which provides:

> "The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

STATEMENT OF THE CASE

On August 4, 1980, agents from the Oklahoma Bureau of Narcotics and Dangerous Drugs (OBNDD) received a call from an informant, who made allegations relating to an alleged patch of marijuana in the area of Bartlesville, Oklahoma. Two days later, on August 6, 1980, Agents Guyton and Harris traveled to Bartlesville to

meet with the informant. Local officials were neither apprised of the accusation, nor informed that the agents planned a trip to North-Eastern Washington County. After conversing with this individual, the agents, accompanied by the informer, proceeded to the area where the marijuana patch was purportedly to be found.

Travel to the marijuana plot entailed a journey of several miles deep into rural Washington County, where, at length, the group found themselves on a remote, country road. They proceeded along this route, traveling east and south, until a sharp turn marked a directional change in the road. Situated just prior to the curve was a gate. This was a steel gate, which is kept locked at night, opened every morning at approximately 6:30 A.M. and closed again each evening sometime between 6:00 P.M. and 8:00 P.M. The gate was of a cattle guard type with a steel, swinging gate panel. When shut, it closes the cattle guard and seals the road off at this point. This gate was further clearly marked on the date the agents passed through as *"private property,"* by means of a sign which stated "NO HUNTING, PRIVATE PROPERTY." The sign had been put up by Petitioner. It was obvious that the road which the agents proceeded east on, once passing through the steel pipe gate, was not a county road. It was not maintained like a county section-line road; it was not paved, but, instead, was only graveled in places; it resembled more nearly a curving winding access route to private property. Testimony established that the road is, in fact, *not* a county section-line road, and thus, not in any way a public road. The section line is, in reality, ten acres further south

and is not an open section line. Testimony further established that the only people who ever go down the road in question are the oil lease pumper and the roustabout on the Scudder Oil lease, as well as the landowner, Pat Scudder, and his part-time employee, Ben Thaxton.

Continuing east down the private road, the agents came upon a ford in the creek. The creek was either dry, or at a low enough level to allow the agents to observe this ford, which angled down its sides for perhaps 50 yards, then follows the creek itself. As they continued to head east, the agents passed some oil storage tanks, prior to crossing the dry creek bed.

While driving down this strange, secluded, winding road, the agents admitted to wondering whose property they might be on, for one of them clearly tesified that he assumed the road was *owned* by someone. The agents also questioned whose land they might be on.

When the agents had traveled as far as they possibly could in an easterly direction, they reached a point where they virtually, according to the agents, had run out of road. This point was some ½ mile beyond the metal gate which marked the entrance into private property. Here, the agents encountered a fence. At this point, they exited their vehicle and began their hike on foot. This point is ½ mile from the marijuana patch which patch was not visible from where the vehicle was parked. The agents then began their journey on foot, by crossing the above described fence. They then crossed the creek a second time and

began walking across the pasture. Agent Harris estimated that, from the point where they parked, the agent walked for approximately 10 minutes across pastureland, until they approached the marijuana patch.

Agent Guyton stated that, in terms of distance, the agents had traveled approximately 1½ miles on foot. The journey was over rugged terrain. The agents were required to twice cross the creek on foot and navigate the steep slopes of the creek bed.

The marijuana patch did not come into plain view until the agent had crossed the creek on the other side from where they left the confidential informant. The confidential informant had walked with them only to within a distance of 250 yards; yet, the plot had not come into view at this point, and so the agents traveled on without their guide and without their destination in their sights.

As they walked across the pastureland of rural Washington County, agents observed neither residences, persons, other paths or roads, nor did they see cattle and/or other domesticated animals. In short, this was a remote area, one to which there was no unrestrained, public access, nor public access of any nature. The agents had penetrated deeply into this area, and, indeed, were only 50 to 75 yards, or from 150 to 225 feet from the patch itself when they first caught glimpse of it.

Trees grew all along Cedar Creek and hid the patch from the view of anyone on the south side thereof. So obstructed was their view that Agents Harris and Guyton could only determine that the patch was, in their opinion,

growing marijuana when they were only a short distance outside the patch; they confirmed their opinion that the plants were marijuana when they were within 15 to 45 feet from the plot. The agents observed the marijuana patch to be enclosed by a 4 or 5 wire barbed-wire fence, put up by Damon "Chub" Anderson. In addition to the heavy tree line along Cedar Creek, a line of trees bordered the south side of the patch. Access to the plot of land entailed the agents crossing two (2) private fences.

The agents stopped at a distance of 150 feet, or 50 yards from the patch, to observe if anyone was watching; they then surreptitiously entered the patch. Both Agent Harris and Guyton admit that they entered the marijuana plot to make an "open field search." By their own admission, the agents conducted a search without warrant even *after* a point when they had verified the presence of marijuana, from a place outside the patch. Nevertheless, the agents entered the plot and went approximately 20 feet into the plants, to conduct further search, take pictures, and gather samples. No cultivation was observed outside of the plot. Agents were in the field for between 5 to 10 minutes before they encountered Damon "Chub" Anderson. The agents wore no uniforms nor would anything about their appearance have identified them as law officers; hence, nothing would have distinguished the two from common trespassers, in the eyes of Damon Anderson, as he was arrested. After this search and arrest of Damon Tucker Anderson in the patch of marijuana, a search warrant was then obtained by the agents.

These agents were admitted strangers to rural Washington County. Both testified that they had no idea what county they were in when hiking across the deserted pastureland, nor upon whose land they had trespassed. Moreover, this information was lacking at the time of drafting the instant search warrant and warrant affidavit. The affiant admitted he never checked Washington County maps or plats, in an effort to personally apprise himself of the whereabouts of the land he had just searched. Instead, this information was supplied, second hand, by another local official, Dewey Police Chief, Gary Epps. Yet, at the point of issuing the instant warrant, Chief Epps had not accompanied these officers to the plot in question. In addition to the agents' failure to notify local officials prior to their entry upon the above described land, the landowner was also not apprised of their intended search. Pat Scudder owner of the above described property, testified that he was never consulted by any law enforcement officials that they intended to enter upon his property. He stated that permission would not have been given in the absence of a search warrant.

Evidence established that Damon Tucker Anderson leased the land in question and lived there with his family for 6 to 7 years prior to the date of the incident. Under the lease agreement, Damon Anderson had property interests in not only Section 8, but also in Sections 9, 16 & 17 of Township 27N, Range 14E. By the terms of this arrangement, Damon Anderson had the right to keep people out of Section 8, and testimony clearly established that he would, and had, run trespassers out of this section. He

further looked after his own stock that grazed on Section 8, and that of Pat Scudder, which would graze on Sections 8, 9, 16 & 17. Under the terms of the lease agreement, Anderson could put a garden *anywhere* he chose in Section 8, so long as it did not interfere with Scudder's use. Damon "Chub" Anderson looked after Scudder's cattle in Section 8 and would help with the roundup of cattle in this section, look after Scudder's cattle in the area and keep out trespassers. His rights, duties and obligations under this agreement extended to the whole 1,000 acres south of the county road, including Section 8 and parts of Sections 9, 16 & 17.

The Section 8 property, lived upon and leased by the Damon Anderson family, is *isolated.* The nearest county road is more than ½ mile north of the Anderson home; hence, the area of the Anderson residence and the marijuana patch is *secluded.* Testimony established that from the point where the Anderson trailer is located, to the marijuana patch, is a distance of between 500 and 600 feet. From the vantage point of the trailer, only the extreme northeastern portion of the patch is at all visible. Thus, in the words of the agent who searched the premises, persons standing at the trailer would have no idea what was growing in the patch. The only private road even remotely in the area of the patch was located to the north thereof, and was used exclusively by Mr. Scudder for purposes of inspecting his ranch. Mr. Scudder testified that this particular road was not used for oil field purposes. For ¼ to ½ mile east of the patch was a fescue field which grew without cultivation. Mr. Scudder testified that

his ranch inspection took him over Section 8 only once a week and that such occurred in the early morning or late evening hours, due to the fact that cattle are in the shade during the day, obscuring them from view except during these times.

Evidence further established that no aerial observations were made of the land in question prior to the agents' venturing on the same, despite the fact that the patch would have been clearly visible from the air.

How the Issues were Raised Below

At the Preliminary Hearing, Petitioner filed his Motion to Suppress Evidence, Motion for Order Quashing Search Warrant, Motion to Quash (Information and/or Warrant) and Motion to Suppress, all of these motions were based in part upon the illegality of the search and the officers failure to obtain a search warrant prior to trespassing upon private land. Copies of these motions are attached hereto in Appendix B. These Motions were denied by the Court at the Preliminary Hearing and were subsequently renewed, briefed and reargued in front of the District Court. The Transcript of Proceeding held April 7, 1981, at pg. 27, Line 2, sets forth the ruling of Honorable Judge Byron Williams as follows:

> "I'm going to hold that the open fields doctrine still survives in Oklahoma . . . I'm going to find that the area was in an open field and therefore, is not within the meaning of the protected right of the Fourth Amendment. The Motion to Suppress on the portion of the original entry is overruled. An exception is allowed to the Defense."

At the same time, by way of the same motions, the Petitioner also challenged the validity of the search warrant obtained after the initial search by officers. Petitioner argued this not only upon the issue of the prior illegal warrantless search, but also based upon the misdescriptions in the warrant, the failure to establish probable cause for the issuance of the warrant, the failure to provide sufficient information in the affidavit to substantiate the reliability of the informant, the overly broad nature of the warrant issued and other defects. These motions were argued and again overruled by the Court at pg. 16, Line 6 of the Transcript of Proceedings held on April 7, 1981, before Honorable Byron Williams.

The motions were renewed at trial and the admission of seized evidence was objected to at trial. Petitioner after trial, filed a timely appeal to the Court of Criminal Appeals on the issues raised below in the Trial Court, a copy of the Petition in Error of Petitioner is attached hereto as Appendix C. On appeal, the Oklahoma Court of Criminal Appeals simply ignored the arguments of Petitioner regarding the application of *Katz v. United States,* 389 U.S. 347, 88 S.Ct. 507, 19 L.Ed.2d 576 (1967) to this case relying solely on *Hester v. United States,* 265 U.S. 57, 44 S.Ct. 445, 68 L.Ed. 898 (1924) to form the basis of its ruling. A copy of the Opinion is attached hereto as Appendix A. This ruling affirmed the trial Court's rulings. Thereafter, a timely Petition for Rehearing was filed and was denied by the Court. A copy of Order Denying Rehearing is attached hereto in Appendix D. This instant Petition for Writ of Certiorari now follows:

REASONS FOR GRANTING THE PETITION

Supreme Court Rule 17, while stating that it is neither controlling nor does it fully measure the discretion of this Court to accept review, fully supports the granting of review by certiorari in the case at bar. The problems associated with and the general unpalatability of a system of Courts throughout the United States in which a given fact situation would result in differing rights and privileges being extended to various defendants depending upon which court is interpreting the United States Constitution are corrected by Supreme Court Rule 17.1 (a, b & c). This rule is clearly designed to grant review to cases in which different results have been reached by different courts across the country upon the same federal question. The questions presented by the case at bar deal exclusive with the interpretation of the Fourth Amendment to the United States Constitution.

A review of the ruling of the Oklahoma Court of Criminal Appeals and the rulings arising in other jurisdictions across this country clearly demonstrate that a citizen accused's United States Fourth Amendment rights are less important and less protected in Oklahoma than that of a citizen accused in other State and Federal Courts across the United States. The Fourth Amendment protection afforded to a criminal defendant in Oklahoma extend only as far as the Opinion of this Court issued in 1924 as set out in *Hester v. United States,* 265 U.S. 57, 44 S.Ct. 445, 68 L.Ed. 898 (1924). *Hester,* supra, established the principle that buildings and curtilage were protected under the Fourth Amendment. The later holding of *Katz v. United*

States, supra, has, according to the Oklahoma Court of Criminal Appeals, no effect upon this prior *Hester,* ruling. The Oklahoma Court therefore interpreted Petitioner's Fourth Amendment rights as extending no further than *Hester,* and found that the search of the field in question did not fall within the definition of curtilage and was therefore not protected. This ruling of the Oklahoma Court is in direct conflict with numerous other State and Federal Courts which have passed upon this subject. These other Courts have analyzed this question based upon a *Katz v. United States,* analysis of the facts. *Florida v. Brady,* now on appeal before this Court in Supreme Court Number 81-1636 (found below at *State v. Brady,* Fla., 406 So.2d 1092 (1981)) on facts almost identical to those in the present case, held that the *Katz* rational must now be employed to determine whether a search was unreasonable in an open field area which prior to *Katz* would have been determined by *Hester.*

The *Brady* case involves the trespassing by Florida Police authorities through locked gates into a private local airplane landing strip into which they suspected drugs were being smuggled. The isolated nature of the landing field in Brady is very much the same as the isolated field in the case at bar.

The North Dakota Supreme Court has also followed the *Katz v. United States,* analysis in suppressing what would have been a traditionally permissible search by officers prior to *Katz* in *State v. Johnson,* N.D., 301 N.W.2d 625 (1981). These cases both stress the role which *Katz* has played in modifying the applicability of the *Hester* rulings.

State v. Johnson, supra, provides:

> "In *Katz v. United States,* supra, the United States Supreme Court defined a search and seizure within the protection of the Fourth Amendment as a violation of "privacy upon which he *(Katz)* justifiably relied." The standard which has evolved from Katz is that if an individual has a reasonable expectation of privacy in the area searched or the material seized, then a search and seizure within the protection of the Fourth Amendment has been conducted." *Johnson,* supra at 627.

Following the same view, the Florida Supreme Court held:

> "Under the reasoning of Katz, if the owner or occupier of a field seeks to keep it private and demonstrates an actual intention to do so, and his expectation is one that society is willing to recognize as reasonble then Fourth Amendment protections extend to activity in that field." *State v. Brady,* supra at 1096.

The Court of Appeals of California has held that the ruling of *Hester v. United States,* is no longer viable and has applied the *Katz* rational in holding that the warrantless search of a rural area, which was concealed from view and to which access had been restricted by posted signs and gates, was illegal. *Burkholder v. Super Court of State of California,* Cal. App; 158 Cal. Rptr. 86 (Calif. 1979). *Phelan v. Superior Court of Mariposa County,* 90 Cal. App; 3d 972, 153 Cal Rptr 738 (1979) also supports this view even where there had only been a trespass of 30 to 80 feet onto the rural property of Defendant by police to obtain a view of the marijuana and where there had

been no actual entrance into the patch. The case of *State v. Wert,* 550 SW.2d1, (Tenn. 1977) is a case in which the Court of Criminal Appeals of Tennessee held:

> "*Katz,* has modified Hester by injecting the privacy concept to the open fields doctrine. See *Katz,* supra footnote 9; Air Pollution Variance Board v. Western Alfalfa Corporation, 416 U.S. 861, 94 S.Ct. 2114, 40 L.Ed 2d 607 (1974), which specifically referred to respondent's privacy interest although finding none in that case, because inter alia, he took no steps to designate his property as private by excluding the public therefrom." supra at 2.

The facts of *Wert,* are very similar to those of the instant case as are those in *State v. Lakin,* 588 SW.2d 544 (Sp. Ct. Tenn. 1979).

State v. Lakin, follows the same view and suppresses the evidence as being obtained as the product of an illegal search. The Supreme Court of Hawaii has also recognized the effect of *Katz* and other United States Supreme Court cases upon the open fields question by pointing out that:

> "[O]fficial intrusions into matters or activities as to which an individual has exhibited a reasonable expectation of privacy are searches within the meaning of the Fourth Amendment" *State v. Stachler,* 570 P.2d 1323 (Hawaii, 1977).

Stachler, supra involved the air surveillance of property which was fenced and posted with no trespassing signs and which could not be viewed from adjacent land. Finding that the original aerial observation was conducted in a reasonable matter and that the officers had then obtained

a search warrant, based upon this first aerial observation, before any entry onto the land of Defendant the Court upheld the search and seizure finding that the Defendant had no ligitimate expectation of privacy from aerial overflight even though he might have had one from ground intrusions.

The Ninth Circuit Court of Appeals has also passed upon the question in *United States v. Fluker,* 543 F.2d 709 (9th Cir. 1976). *Fluker,* supra involves a search of a common hallway between the door of an individual apartment and the outside door for a group of apartments. In passing upon this question, the Ninth Circuit held:

> "As noted by this Circuit in Wattenburg v. United States, 388 F.2d 853 (9th Cir. 1968), however, the 'curtilage' test is no longer appropriate in ascertaining the extent of the Fourth Amendment protections against unreasonable searches and seizures. Interpreting *Katz v. United States,* 389 U.S. 347, 88 S.Ct. 507 17 L.Ed 2d 576 (1967) this Court stated: "It seems to us a more appropriate test in determining if a search and seizure adjacent to a house is constitutionally forbidden and whether it constitutes an intrusion upon what the resident seeks to preserve as private even in an area which, although adjacent to his home, is accessible to the public . . ." *Fluker,* supra at 716.

Other cases have followed the same expectation of privacy rational established by *Katz,* supra in passing upon questions which, prior to *Katz,* supra, would have been viewed under the traditional *Hester* curtilage concept. These additional cases being *State v. Alexander,* 406 A.2d 313

(Sp.Ct. NJ 1979), *People v. Sneed,* 32 Cal. App., 3rd 535, 108 Cal. Rptr 146 (1973), *United States v. Jackson,* 585 F.2d 653 (4th Cir. 1978), *People v. Krivda,* 96 Cal. Rptr 62, 486 P.2d 1262 (S.Ct. 1971) and *United States v. Holmes,* 521 F.2d 859 (5th Cir. 1975). A review of these cases points out the unworkability and artificial nature of the prior *Hester* curtilage theory and the need for an individual examination of the Citizen's Accused's Expectation of Privacy. In some cases, the *Katz* rational will work against the Criminal Defendant and in some it will be of benefit but in all cases under the *Katz* rational, a Court will look to the evidence and examine it to ascertain whether, based upon the facts surrounding the search, the officers have violated a reasonable expectation of privacy not just simply whether they searched an area within a certain distance of a residence or within an enclosure.

I am advised by the United States Supreme Court Clerk's office that there are currently three cases up on appeal before the Supreme Court regarding the open fields question. This case should be granted certiorari to insure that the final result in this case is consistent with the rulings ultimately reached by this Court in the other cases now pending before it.

Aside from the original "open fields" search conducted by the officers in the case at bar, the officers conducted a search under warrant obtained by using the information gained from the prior warrantless "open field" search discussed above. This search warrant as obtained and executed by the officers was overly broad in its description of items of property to be searched for and the

description of where the search was to be conducted; and amounted to a general search and seizure of the property of Petitioner. Additionally, the affidavit for search warrant fails to supply sufficient information from which a finding of probable cause can be made by this Court as required by *Aguilar v. Texas,* 378 U.S. 180, 84 S.Ct. 1509, 12 L.Ed.2d 723 (1964), *Spinelli v. United States,* 393 U.S. 410, 89 S.Ct. 584, 21 L.Ed.2d 637 (1969), supra and *Franks v. Delaware,* 438 U.S. 154, 98 S.Ct. 2674 57 L.Ed.2d 667 (1978).

The actions of the police authorities in obtaining and executing the warrant and the issuing of the warrant by the Court in such a broad and sweeping fashion represent a violation of Petitioner's Fourth Amendment rights as defined by prior rulings of this Court. Supreme Court Rule 17(c) once again provides that the Court may grant review.

> "When a state court or a federal court of appeals has decided an important question of federal law which has not been, but should be, settled by this Court, or has decided a federal question in a way in conflict with applicable decisions of this court."

This is clearly the case now presented in the rulings of the Oklahoma Court upon the Motions to Quash for the overbreadth of the search warrant. This Court has historically condemned constitutionally overbroad search warrants:

> "The indiscriminate sweep of language (ordering to be seized non-contraband as well as contraband material) is constitutionally intolerable. To hold

otherwise would be false to the terms of the Fourth Amendment, false to its meaning, and false to its history.

Two centuries have past since the historic decision in *Entick v. Carrington,* almost to the very day. The world has greatly changed, and the voice of non-conformity now sometimes speaks a tongue which Lord Camden might find hard to understand. But the Fourth and Fourteenth Amendments guarantee to John Stanford that no official of the state shall ransack his home and seize his books and papers under the unbridled authority of a general warrant – no less than the law 200 years ago shielded John Entick from the messengers of the King." *Stanford v. Texas,* 379 U.S. 476, 13 L.Ed.2d 431, 85 S.Ct. 506, reh.den. 380 U.S. 926, 13 L.Ed.2d. 813, 85 S.Ct. 879 (1965); 13 L.Ed.2d, at p. 438. (emphasis added) (Also see: *Marron v. United States,* 275 U.S. 192, 48 S.Ct. 74, 72 L.Ed. 231 (1927); 275 U.S., at p. 196; 72 L.Ed.2d 231, at p. 237. *Lo-Ji Sales, Inc. v. New York,* 442 U.S. 319, 99 S.Ct. 2319, 60 L.Ed.2d 920 (1979).

Despite the holdings of this Court, the Oklahoma Court system issued a search warrant which provided that the executing officer could seize:

> "Instrumentalities used in the processing and cultivation of marijuana, including compressors, scales or other weighing devices, money, receipts or records of marijuana transactions, or other weighing or packaging devices, marijuana paraphernalia and/or other smoking devices."

Pursuant to this search warrant, the officers rummaged through the Petitioner's belongings and seized a set

of bathroom scales, a tobacco pipe, loose currency and change, household budget records and receipts and a kitchen compactor. As can be seen from this list, the officers were left with and exercised a large degree of discretion in executing the warrant. These actions fly in the face of *Marron v. United States,* supra.

> "The requirement that warrants shall particularly describe the things to be seized makes general warrants under them impossible and prevents the seizure of one thing under a warrant describing another. As to what is to be taken, nothing is left to the discretion of the officer executing the warrant." *Marron,* supra at p. 196.

This Court has condemned such open ended search warrants in the past. *Lo-Ji Sales, Inc. v. New York,* supra involved a search warrant which left up to the executing officer the discretion to determine what was obscene. In the instant warrant the question of what constitutes paraphernalia, smoking devices, weighing or packaging devices is left entirely to the executing officers discretion which is directly in conflict with the prior rulings of this Court.

Additionally, the affidavit and search warrant were overly broad and the description of the property to be searched totally insufficient to meet the specificity required by the prior cited cases. The affidavit and search warrant gave descriptions of premises which might be applied to various locations depending upon the discretion of the executing officer.

In addition to the search warrant being overbroad, the affidavit on which the search warrant was issued was completely devoid of any information on which the issuing Court could ascertain the reliability of the informant. *Aguilar v. Texas,* 378 U.S. 180, 84 S.Ct. 1509, 12 L.Ed.2d 723 (1964) and *Spinelli v. United States,* 393 U.S. 410, 89 S.Ct. 584, 21 L.Ed.2d 637 (1969) require that the following information be supplied to the magistrate:

(1) Underlying facts explaining why this informant is to be believed (i.e. informant's personal reliability); and

(2) The basis by which this informant obtained his information (i.e. the reliability of the information itself).

The later case of *United States v. Harris,* 403 U.S. 573, 91 S.Ct. 2075, 29 L.Ed.2d 723 (1971) allows a court to consider certain other factors in determining the reliability of the informant such as declarations against penal interest and that the officer-affiant stipulates that he himself has personal knowledge of the alleged criminal activity. None of this information has been supplied in the affidavit submitted to the Court and on which the Court issued the search warrant. All information concerning corroboration of the affiant's statements was obtained by way of the illegal open fields search and is tainted and cannot be considered when deciding to issue the warrant.

The Oklahoma Court of Criminal Appeals allowance of such conduct by the police and the issuing magistrate are clearly in direct contravention of the *Aguilar, Spinelli & Harris* decisions of this Court and such Oklahoma rulings should be reversed by this Court to insure that

Petitioner's constitutional rights are protected and that the State of Oklahoma follows this Courts decisions.

There is one final reason why this Court should grant certiorari aside from those expressed supra. This revolves around the function which this Court was designed to serve when the Constitution was drafted and passed by our forefathers. The Constitution established the Court as an independent arm of the Government. The court was established as a check against both the legislative arm and executive arm of the United States Government. The Courts role then is fulfilled in part by its role as protector and defender of the individual rights and freedoms granted in the United States Constituion as against infringement by the legislative or executive branches of the government. In the past few years, there has been a loud outcry by many legislators and members of the executive branch regarding the need to cut back and do away with what are called mere technical defenses for criminal defendants. An analysis of some of these so called technical defenses establishes that they protect the very heart of the Constitutional Rights which were deemed to be so important by our forefathers.

This Court, by granting certiorari in this case, may insure that the basic freedoms set out in the Fourth Amendment are guaranteed continued existence and substance. This Court can be sure that the Constitution does not just become words written long ago on pieces of paper. The Court can, by accepting this case, establish a rule of law that prohibits law enforcement officials from ignoring signs, fences and private property rights without first com-

plying with the proper procedures for entry into an area of individual privacy. There should be no question that when a constitutional right is to be measured against the need for effective or more convenient law enforcement the protection of constitutional rights must prevail. The roaming of the private fenced and posted countryside by ununiformed police should not be the type of police activity which society is willing to permit. The facts that, in some actions of this type, the police do uncover criminal activity cannot be used as a justification for the violation of a basic constitutional right. The end results cannot be used to justify the means when constitutional rights are involved. *Byars v. United States,* 273 U.S. 28, 47 S.Ct. 248, 71 L.Ed. 520 (1927); *Wong Sun v. United States,* 371 U.S. 471, 83 S.Ct. 407, 9 L.Ed.2d 441 (1963); *Johnson v. United States,* 333 U.S. 10, 68 S.Ct. 367, 92 L.Ed. 436 (1948); and *Ker v. California,* 374 U.S. 23, 83 S.Ct. 1623, 10 L.Ed.2d 726 (1963).

CONCLUSION

This Petitioner has sought to provide to this Honorable Court several substantial reasons why these questions of law presented in this case are deserving of review by the United States Supreme Court. The provisions of Rule 17 of this Court are clearly met by both the conflict between the State of Oklahoma and other state and federal courts on their view of the "open fields" question, and also met by the confict existing between the Oklahoma Court of Criminal Appeals application of the law relative to the issuance of search warrants and the

manner in which this Court has established by prior case law that such matters are to be handled. The additional importance of these questions has hopefully been illustrated in the policy arguments of the role of this Court as the guardian of individual constitution rights and as a check against unbridled legislative or executive power. This case clearly presents questions of federal constitution law of a substantial nature which are deserving of the attention of this Court. For the above reasons, Petitioner submits that the instant Petition for Writ of Certiorari should be granted.

Respectfully submitted,
GARRISON, BROWN & CARLSON

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APPENDIX A

No. F-81-772

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

FILED
IN COURT OF CRIMINAL APPEALS
State of Oklahoma
FEB 10, 1983
ROSS N. LILLARD, JR.
Clerk

FOR PUBLICATION

DAMON TUCKER ANDERSON, a/k/a CHUB ANDERSON

Appellant,

v.

THE STATE OF OKLAHOMA

Appellee.

OPINION

BUSSEY, Presiding Judge:

Damon Tucker Anderson, a/k/a Chub Anderson was convicted of Unlawful Cultivation of Marijuana, in the District Court of Rogers County, Case No. CRF-81-88, pursuant to 63 O.S.191, § 2-509. The court sentenced the defendant to ten (10) years' imprisonment with six (6) years suspended and set a fine of $50,000.00.

On August 6, 1980, Agents John Guyton and J.L. Harris of the Oklahoma Bureau of Narcotics and Dangerous Drugs met with an informant who advised

them that Damon Anderson a/k/a Chub Anderson was engaged in cultivating a field of marijuana approximately the size of a football field. The informant then guided the agents to the marijuana field the "backway" so as to avoid detection. Upon entering the field of marijuana to take photographs and samples, the agents observed the defendant harvesting the plants with a large knife and gathering the stalks under his arm. At this point, defendant was placed under arrest and samples of marijuana were seized as evidence. Later that evening, Agent Guyton obtained a search warrant for the defendant's residence area and recovered "copious" amounts of marijuana in various stages of processing from the residence trailer and outbuildings.

In his first assignment of error, defendant alleges that the drug agents' initial entry onto his land violated his right to privacy and that all evidence obtained pursuant to the warrantless intrusion should have been suppressed. In support of his argument defendant cites *Katz v. U.S.*, 389 U.S. 347, 19 L.Ed.2d 576, 88 S.Ct. 507 (1967), and argues that he had a reasonable expectation of privacy in the marijuana field because of its isolated location. However, we are of the opinion that the present situation falls within the open-field doctrine established in *Hester v. United State,* 265 U.S. 57, 44 S.Ct. 445, 68 L.Ed. 898 (1924). The uncontroverted facts are that the area searched was not a curtilage area. *Hunsucker v. State,* 475 P.2d 618 (Okl.Cr.1970). The distance between the marijuana field and the defendant's residence was estimated to be between 200 to 300 yards from the residence-curtilage area. The

fenced north field was further separated by the sharp ravine formed by Cedar Creek. Protection afforded by the Fourth Amendment against unreasonable searches and seizures is not extended to open fields, therefore no search warrant was required for the agents' initial entry upon the land. *Luman v. State,* 629 P.2d 1275 (Okla.Cr.1981). We conclude that the evidence thus obtained did not violate the defendant's right to be free from unreasonable search and seizure and was properly admitted into evidence. Defendant's first assignment of error is without merit.

In his second assignment of error, defendant alleges that the search warrant and warrant affidavit are overly broad and that the evidence seized incident thereto should have been suppressed. Specifically, defendant alleges that language in the search warrant subjects non-contraband articles to seizure as follows:

> Instrumentalities used in the processing and cultivation of marijuana including compressors, scales, or other weighing devices, moneys, receipts or records of marijuana transactions, or other weighing or packaging devices, marijuana paraphernalia and/or other smoking devices.

A close reading of the search warrant, in context, reveals that all listed items authorized for seizure are clearly limited to those used in the processing and cultivating of marijuana. The specificity with which the items are listed prohibited a "general exploratory rummaging in a person's belongings," which was condemned in *Kinsey v. State,* 602 P.2d 240 (Okl.Cr.1979). Therefore, we are of the opinion that the search warrant did not authorize the excuting of-

ficers to conduct a search for evidence of other crimes but only to search for and seize evidence relevant to the crime of cultivation of marijuana. *Andersen v. Maryland,* 427 U.S. 463, 96 S.Ct. 2737, 49 L.Ed.2d 627 (1976). Defendant's second assignment of error is without merit.

In his third assignment of error, the defendant argues that the search warrant is inaccurate and unconstitutionally vague in its description of the premises to be searched.[1] The search warrant sets out two different routes to the premises to be searched: the first description is the route the agents had taken earlier in the day to verify the field of marijuana; the second description is a direct route to the defendant's trailer house. Defendant argues that the first description contains an obvious typographical or clerical error in which the officers are directed "thence last 5.6 miles on said section road approximately 5 miles."

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[1]The search warrant reads in pertinent part as follows:

> Said search to be conducted at the following described location: In the field located at the following location: north on US 75, 3 miles from Don Tyler Ave, Dewey, OK, to a section line road intersecting US 75. Thence east 5.6 miles on said section line road approximately 5 miles, then south of on an intersecting north-south section line, about 1 mile, turning east of said road where it curves past a trailer, then proceeding east on said road past several oil field tanks, then across a dry creek bed, then east another approximate ¼ mile to a second creek bed across an open field about 500 yards across a creek bed to the north, to a fence running east-west, which borders a field containing green growing plants on its southern edge 2-In a trailer house and/or outbuildings) which is located by travelling N on US 7 3 miles from Don Tuler [sic] Ave, Dewey, OK thence east on a section line road 5.6 miles thence south through a green metal gate following the road which leads from said section line through said green metal gate to said trailer.

The instant case is analogous to *Whitechurch v. State,* 572 P.2d 266 (Okl.Cr.1977). In *Whitechurch,* this Court said that a mere clerical error did not constitute reversible error where the executing officer had previous knowledge of the premises to be searched and thus had no need to rely on the description of the location contained in the warrant. In the instant case, Sheriff Codding an executing officer testified that he was familiar with the defendant's residence through prior contacts with the defendant. Also, Agents Guyton and Harris had investigated the premises earlier in the day, prior to obtaining the warrant. Considering these circumstances, we are of the opinion that there is no reversible error in the description. The defendant's third assignment of error is without merit.

With regard to defendant's final assignment of error, we need only point out that the affiant, Agent John Guyton personally observed the defendant cultivating an open field of marijuana the size of a football field and presented testimony under oath regarding the preceding events. See *Panther v. State.,* 637 P.2d 1267 (Okl.Cr.1981). We find no merit in defendant's argument that the affidavit was constitutionally insufficient for lack of probable cause. Defendant's final assignment of error is without merit.

Accordingly, the judgment and sentence is AFFIRMED.

AN APPEAL FROM THE DISTRICT COURT OF
WASHINGTON COUNTY, OKLAHOMA
THE HONORABLE BYRON ED WILLIAMS,
DISTRICT JUDGE

DAMON TUCKER ANDERSON, a/k/a CHUB ANDERSON, appellant, was convicted of the crime of Unlawful Cultivation of Marijuana, in the District Court of Rogers County, Case No. CRF-81-88. He was sentenced to a term of ten (10) years imprisonment with six (6) years suspended and a fine of $50,000.00, and he appeals. AFFIRMED.

ALAN R. CARLSON
GARRISON, BROWN & CARLSON
BARTLESVILLE, OKLAHOMA
Attorney for Appellant

JAN ERIC CARTWRIGHT
ATTORNEY GENERAL OF OKLAHOMA
PATRICK W. WILLISON
ASSISTANT ATTORNEY GENERAL
OKLAHOMA CITY, OKLAHOMA
Attorneys for Appellee

OPINION BY BUSSEY, P.J.
CORNISH, CONCURS
BRETT, J., CONCURS IN RESULTS

APPENDIX B

No. CRF-80-215

IN THE DISTRICT COURT OF WASHINGTON COUNTY, STATE OF OKLAHOMA

FILED
DISTRICT COURT
Washington County, Okla.
OCT 6, 1980
DORIS CORNUTT
Court Clerk Deputy

STATE OF OKLAHOMA
Plaintiff

v.

DAMON TUCKER ANDERSON a/k/a Chub
Defendant

MOTION TO SUPPRESS

COMES NOW the defendant above named, and moves the Court to suppress as evidence against him in this case, all evidence, whether tangible or intangible, which was obtained as a result of the defendant's arrest and/or search herein, and any and all searches conducted herein, for the reason that the same was illegal and in

violation of Defendant's statutory and constitutional rights.

GARRISON, BROWN & CARLSON
Attorneys for Defendant

By _____
Alan R. Carlson

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the above and foregoing motion upon the District Attorney's Office, Washington County Courthouse, Bartlesville, Oklahoma, this _____ day of October, 1980.

_____
ALAN R. CARLSON

No. CRF-80-215

IN THE DISTRICT COURT OF WASHINGTON COUNTY, STATE OF OKLAHOMA

STATE OF OKLAHOMA
Plaintiff

v.

DAMON TUCKER ANDERSON a/k/a Chub
Defendant

MOTION TO QUASH

COMES NOW the defendant above named, and moves the Court to quash the information and/or warrant filed herein, for the reason that the arrest of the defendant, the search of the defendant, and any and all searches conducted herein, were illegal and in violation of the defendant's statutory and constitutional rights, and this Court does not have either jurisdiction of the person of the defendant or the subject matter thereof. Defendant alleges that he is acting in good faith, desires to offer evidence

and asks the Court for an order to examine witnesses in support thereof and that subpoenas be issued.

GARRISON, BROWN & CARLSON
Attorneys for Defendant

By _____
Alan R. Carlson

STATE OF OKLAHOMA

ss.

WASHINGTON COUNTY

DAMON TUCKER ANDERSON a/k/a Chub, of lawful age, being first duly sworn on oath, deposes and states that he has read the above and foregoing instrument, knows the contents thereof and that the statements therein contained are true and correct.

s/s Damon Anderson
DAMON TUCKER ANDERSON

Subscribed and sworn to before me this 6th day of October, 1980.

s/s Linda Ambrase
NOTARY PUBLIC

S E A L

My Commission Expires: June 17, 1984

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the above and foregoing motion upon the District Attorney's Office, Washington County Courthouse, Bartlesville, Oklahoma, this _____ day of October, 1980.

_____

ALAN R. CARLSON

No. CRF-80-215

IN THE DISTRICT COURT OF
WASHINGTON COUNTY, STATE OF OKLAHOMA

STATE OF OKLAHOMA
Plaintiff

v.

DAMON TUCKER ANDERSON a/k/a Chub
Defendant

MOTION FOR ORDER QUASHING SEARCH WARRANT

COMES NOW the defendant, by and through his attorney of record, Alan R. Carlson, and moves of this Court for an order directing that the property seized be suppressed as evidence against him in any criminal proceeding, and that the search warrants pursuant to which the property was seized, be quashed, for the reason that said search warrants were obtained based on information

which was obtained illegally and in violation of the defendant's statutory and constitutional rights.

GARRISON, BROWN & CARLSON
Attorneys for Defendant

By _____
Alan R. Carlson

STATE OF OKLAHOMA

ss.

WASHINGTON COUNTY

DAMON TUCKER ANDERSON a/k/a Chub, of lawful age, being first duly sworn on oath, deposes and states that he has read the above and foregoing instrument, knows the contents thereof and that the statements therein contained are true and correct.

s/s Damon Anderson
DAMON TUCKER ANDERSON

Subscribed and sworn to before me this 6th day of October, 1980.

s/s Linda Ambrose
NOTARY PUBLIC

S E A L

My Commission Expires: June 17, 1984

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the above and foregoing motion upon the District Attorney's Office, Washington County Courthouse, Bartlesville, Oklahoma, this _____ day of October, 1980.

_____

ALAN R. CARLSON

No. CRF-80-215

IN THE DISTRICT COURT OF WASHINGTON COUNTY, STATE OF OKLAHOMA

STATE OF OKLAHOMA
Plaintiff

v.

DAMON TUCKER ANDERSON a/k/a Chub
Defendant

MOTION TO SUPPRESS EVIDENCE

COMES NOW the defendant above named, by his attorney, and hereby moves of this Court for an order suppressing as evidence seized as a result of the execution of two (2) search warrants, the first of which is dated the 6th day of August, 1980, and bearing miscl. number 80-23, and the second of which is dated August 7, 1980, and which bears miscl. number 80-22, and which property was seized under those warrants. This motion is made on the grounds that all the property which was seized was illegally seized for the following reasons:

1. The warrant was insufficient on its face.

2. There was no probable cause for believing the existence of the grounds on which the warrant was issued.

3. The affidavit on the basis of which the warrants were issued, does not set forth facts establishing the grounds of the motion or facts establishing the source of the information alleged in the affidavit.

4. The warrant fails to describe with sufficient particularity the person or places to be searched and the property to be seized.

5. There was an unreasonable lapse of time between the date the information alleged in the affidavit was acquired and the date the warrant was issued, by reason of which the information was stale.

6. The warrant was not obtained and executed properly.

7. The search warrants were issued on the basis of affidavits which were executed on August 6, 1980 and August 7, 1980. Such affidavits were based on evidence and information obtained by means of a warrantless and unlawful search and seizure of various places, persons, including the person of the defendant, and a warrantless and unlawful arrest of the defendant.

8. The warrants in question were issued on the basis of affidavits, and which affidavits were themselves based on hearsay information attained from an undisclosed informant. The affidavits contained mere conclusions of the unidentified informant, fails to state any underlying facts or circumstances establishing the informant's personal knowledge or properly corroborating his or her informa-

tion, and fails in any way to establish the credibility or reliability of the informant, and the affidavits were insufficient to establish probable cause for the issuance of the warrants, in violation of the defendant's statutory and constitutional rights.

9. The affidavits and warrants in question are insufficient in that the affidavits were not based on the affiant's personal knowledge, but were based on hearsay conclusions, without any underlying facts showing a presently existing probable cause for issuance of the warrant or seizure of the property. The affidavit contained no facts or material allegations connecting Defendant with or showing that the property seized constituted evidence of the commission of a criminal offense. The affidavits and warrants themselves were insufficient on their face, in that they failed to particularly describe the property to be seized.

WHEREFORE, the defendant respectfully requests that an order be entered suppressing of evidence any and all properties seized under the warrants in question.

GARRISON, BROWN & CARLSON
Attorneys for Defendant

By _____
Alan R. Carlson

STATE OF OKLAHOMA

ss.

WASHINGTON COUNTY

DAMON TUCKER ANDERSON a/k/a Chub, of lawful age, being first duly sworn on oath, deposes and states that he has read the above and foregoing instrument, knows the contents thereof and that the statements therein contained are true and correct.

s/s Damon Anderson
DAMON TUCKER ANDERSON

Subscribed and sworn to before me this 6th day of October, 1980.

s/s Linda Ambrose
NOTARY PUBLIC

S E A L

My Commission Expires: June 17, 1984

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the above and foregoing motion upon the District Attorney's Office, Washington County Courthouse, Bartlesville, Oklahoma, this _____ day of October, 1980.

ALAN R. CARLSON

APPENDIX C

No. F-81-772

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

FILED
IN COURT OF CRIMINAL APPEALS
State of Oklahoma
DEC 11, 1981
ROSS N. LILLARD, JR.
Clerk

DAMON TUCKER ANDERSON, a/k/a CHUB,
Appellant

v.

THE STATE OF OKLAHOMA
Appellee

PETITION IN ERROR

COMES NOW the appellant, DAMON TUCKER ANDERSON, a/k/a CHUB, and complaining of the appellee, State of Oklahoma, respectfully states:

That heretofore on the 8th day of June, 1981, said appellant was tried in the District Court of Rogers County, State of Oklahoma, on Information No. CRF-80-215, said information having originally been filed in Washington County, Oklahoma, and said case having been moved to the District Court of Rogers County, State of Oklahoma, and being reassigned the Rogers County Number of CRF-81-88, which information alleges the crime of

"Unlawful Cultivation of Marijuana," alleged to have occurred on the 6th day of August, 1980. The appellant was found guilty and a verdict of guilty was returned on the 18th day of June, 1981, and punishment was assessed on the 18th day of June, 1981, at ten (10) years in the custody of the Department of Corrections with four (4) years to be served and six (6) years to be suspended, together with a fine in the amount of Fifty Thousand and No/100 Dollars ($50,000.00).

The Motion for Judgment of Not Guilty Notwithstanding the Verdict, or Alternatively, Motion for New Trial, was filed on June 26, 1981, and overruled with exceptions after presentation on the 1st day of July, 1981. Judgment and sentence was imposed on June 18, 1981, pursuant to the court's verdict. Appellant filed his Notice of Intent to Appeal and Request for Preparation of a Transcript of Evidence and Request for Preparation of Record, along with his Designation of the Portions of the Trial Court Record on Appeal, all on June 26, 1981. The Court set bail pending appeal in the sum of Fifty Thousand and No/100 Dollars ($50,000.00), and said Appellant is presently released under bond pending this appeal.

The appellant avers that he did not receive a fair and impartial trial because of errors of law occurring in the proceedings which substantially prejudiced his rights as follows, and requests that after considering the same, this court reverse the decision of the Trial Court with directions to dismiss, to-wit:

1. Error of the court in overruling the defendant's Motion to Quash Information to which the defendant excepted.

2. Error of the court in overruling Defendant's Demurrer to the Information to which the defendant excepted.

3. Error of the court in overruling Defendant's Motion to Quash the arrest to which the defendant excepted.

4. Error of the court in overruling Defendant's Motion to Suppress to which the defendant excepted.

5. The court erred in admitting over Defendant's objections and expections, incompetent, irrelevant, immaterial and prejudicial evidence.

6. Error of the court in allowing the State's witnesses to testify over the defendant's objections as to the evidence which was obtained pursuant to a search warrant.

7. Error of the court in admitting the marijuana into evidence over Defendant's objections.

8. Error of the court in overruling the defendant's Demurrer to the evidence and Motion for directed verdict of not guilty at the conclusion of the state's evidence.

9. Error of the court in overruling the defendant's renewal of all pre-trial and trial motions at the conclusions of the state's evidence.

10. Error of the court in overruling the defendant's Demurrer to the evidence and Motion for directed verdict of not guilty at the conclusion of all the evidence.

11. Error of the court in overruling the defendant's renewal of all pre-trial and trial motions at the conclusion of all the evidence.

12. Errors of law occurring at the trial and duly objected to by the defendant.

13. The verdict is not sustained by sufficient evidence and is contrary to the law.

14. The punishment assessed by the court is excessive.

15. The court erred in its ruling on the admissibility of evidence as shown by the objections taken at the time of trial.

16. The court erred in failing to protect the statutory and constitutional rights of the defendant and to give him a fair and impartial trial as guaranteed by the Constitution of the United States and the Constitution and statutory law of the State of Oklahoma.

WHEREFORE, Appellant prays that said judgment and sentence so rendered be reversed, set aside and held for naught and that the Appellant be restored to all rights which he may have lost by the rendition of said judgment and sentence, and that said cause be reversed with instruc-

tions to dismiss and for such other relief as the Court may deem fit and proper.

GARRISON, BROWN & CARLSON
530 SE Delaware
P.O. Box 1217
Bartlesville, OK 74005
(918) 336-2520

Attorneys for Appellant

By _____
Alan R. Carlson

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Petition in Error was hand served this _____ day of December, 1981, upon the Attorney General of the State of Oklahoma, State Capitol Building, Oklahoma City, Oklahoma, attorney for the appellee, and a true and correct copy of the above and foregoing Petition in Error was mailed the same date to the District Court Clerk of Rogers County, County Courthouse, Claremore, Oklahoma, with full postage thereon prepaid.

_____
ALAN R. CARLSON

APPENDIX D

No. F-81-772

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

FILED
IN COURT OF CRIMINAL APPEALS
State of Oklahoma
APR 5, 1983
ROSS N. LILLARD, JR.
Clerk

DAMON TUCKER ANDERSON, a/k/a CHUB ANDERSON

Petitioner,

v.

THE STATE OF OKLAHOMA

Respondent.

ORDER DENYING PETITION FOR REHEARING

NOW on this 5th day of April, 1983, after having examined the petitioner's petition for rehearing in the above styled and numbered cause, and being fully advised in the premises, this Court finds that it should be and the same hereby is DENIED.

IT IS SO ORDERED.

WITNESS OUR HANDS AND THE SEAL OF THIS COURT this 5th day of April, 1983.

s/s Hex J. Bussey
HEZ J. BUSSEY, PRESIDING JUDGE

s/s Tom R. Cornish
TOM R. CORNISH, JUDGE

s/s Tom Brett
TOM BRETT, JUDGE

ATTEST:

s/s Ross N. Lillard, Jr.
Clerk

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